Fellow Americans at the Department of Justice:

The proposed final judgement (PFJ) in the Microsoft antitrust case fails to prohibit anticompetitive license terms currently used by Microsoft. This is just one of many problems with the proposed settlement -- other problems include but are not limited to the PFJ failing to prohibit anticompetitive practices towards OEM manufacturers, failing to prohibit intentional incompatibilities historically used by Microsoft, and the misleading and overly narrow definitions and provisions outlined in the PFJ.

The vast majority of the provisions within the settlement only formalize the status quo. Of the remaining provisions, none will effectively prohibit Microsoft from abusing its current monopoly position in the operating system market. This is especially important in view of the seriousness of Microsoft's past transgressions. More importantly, the PFJ does nothing to correct Microsoft's past actions or redress their previous abuses.

Microsoft currently uses restrictive licensing terms to keep Open Source applications from running on the Windows platform. Open source software is the technological equivalent of free speech, so this is an area which must be addressed with regard to the Constitutional liberties of American citizens. All products should be given a fair chance to succeed in the marketplace -- licensing terms currently used by Microsoft do not allow this to happen.

EULAs (End User License Agreements) which absolve Microsoft of all liability are a disgrace to the free enterprise system, as they leave users with no rights for products and/or services they have purchased with their hard earned money. Imagine if Ford and Firestone made computer software -- both companies would be free from their responsibility in the rollover deaths attributed to the Ford Explorer incident. Imagine dining at a restaurant and getting food poisoning, only to discover that the establishment can not be penalized because there are no health and safety laws to protect the consumer from gross neglect. Now imagine that your small business has paid a king's ransom for Microsoft software and services, gets hacked and loses data (I.E. loses business) because of a security hole in the Microsoft software, but they can not gain financial restitution for goods and services they have purchased. Clearly there is a double-standard with the computer software industry when it is compared to other service industries. The PJF should take such matters into consideration and hold corporations like Microsoft accountable for their neglect, as they are providing a service.

Microsoft's enterprise license agreements -- those used by large corporations, state governments, and educational institutions charge by the number of computers which "could" run a Microsoft operating system -- even computers running the open-source Linux or BSD-based operating systems. Similar licenses to OEMs were once banned by the 1994 consent decree. Clearly these are monopolistic tactics -- how else could a corporation force their clients to purchase goods and/or services that are not necessary?

Please take these points into consideration and reconsider how they affect the United States Constitution with regard to personal liberties. Computer software manufacturers should not be allowed to dictate the progress of this nation for the sake of their profit margins, all while hiding behind the facade of progress -- allowing such practices to continue not only disregards the essential liberties of the typical American consumer, but disregards volumes of American legislation to curb monopolistic practices. The opinions expressed above are my own -- with some assistance from the Web-based community of information-technology professionals -- and does not represent the opinions of my employers. Thank you for your time.

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